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Practitioner's Docket No. BUR920020146US1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: John M. Blondin et al.

Application No.: 10/604,183

Group No.: 2829

Filed: 06/30/2003

Examiner: Vinh P. Nguyen

For:

An apparatus for preventing cross-talk and interference in semiconductors during test

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY UNDER
37 C.F.R. § 1.137(b)**

NOTE: In a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995, any petition to revive pursuant to this section must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any terminal disclaimer pursuant to this paragraph must also apply to any patent granted on any continuing utility or plant application filed before June 8, 1995, or a continuing design application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The provisions of this paragraph do not apply to lapsed patents. 37 C.F.R. § 1.137(d)(2).

NOTE: In accordance with the Notice of November 5, 1990 (1121 O.G. 6), an application abandoned under 37 C.F.R. § 1.53(d) for failure to timely provide the appropriate filing fee, oath or declaration and/or surcharge may be revived under the procedure of 37 C.F.R. § 1.137(b).

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

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☐ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 *

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☒ facsimile transmitted to the Patent and Trademark Office, (703) 872-9306

Francis J. Thornton
Signature

Date: July 12 2005

Francis J. Thornton

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(c)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Petition for Revival of Unintentionally Abandoned Application [11-3]—page 1 of 4)

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4. Fee (37 C.F.R. 1.17(m))

Application status is:

- ☐ Small business entity—fee \$750.00
☐ A statement is attached.
☐ A statement was filed.
☒ Other than small entity—fee \$1,500.00

5. Payment of fee

- ☐ Attached is a ☐ check ☐ money order in the amount of \$ _____
☒ Authorization is hereby made to charge the amount of
☐ \$750.00. ☒ \$1,500.00.
☒ to Deposit Account No. 09-0456
☐ to Credit Card as shown on the attached credit information authorization form PTO-2038.

A duplicate of this petition is attached.

WARNING: Credit card information should not be included on this form as it may become public.**6. Showing:***(complete the following, if applicable)*

- ☐ Because this petition is more than 3 months after the date the Office first notified the applicant that the application is abandoned, applicant additionally submits a showing as to how the delay between the date the applicant was first notified that the application is abandoned and the filing of this petition under 37 C.F.R. § 1.134(b) was unintentional. 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).
- ☐ Because this petition is more than 1 year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).

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7. Terminal Disclaimer:**NOTE: 37 C.F.R. 1.137(d):****(d) Terminal disclaimer.**

(1) Any petition to revive pursuant to this section in a design application must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any petition to revive pursuant to this section in either a utility or plant application filed before June 8, 1995, must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of:

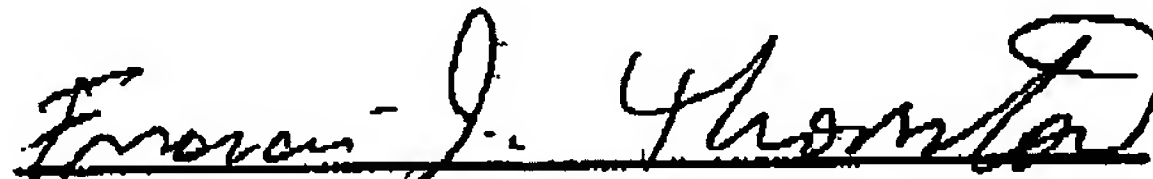
(i) The period of abandonment of the application; or

(ii) The period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 385(c), from the date on which the earliest such application was filed.

Since this application is:

☐ a design application☐ a utility application filed before June 8, 1995

a terminal disclaimer and the fee set forth in § 1.321 accompanies this petition.

Date: July 12, 2005Signature of person making statement
that abandonment was due to an unintentional delayFrancis J. Thornton

(type or print name of person making statement)

2405 Ethan Allen Highway

Residence of person making statement

Charlotte, Vermont 05445

Reg. No.: 20610

Tel. No.: (802) 425-2410

Customer No.: 000054796



SIGNATURE OF PRACTITIONER

Francis J. Thornton

(type or print name of practitioner)

2405 Ethan Allen Highway

P.O. Address

Charlotte, VT 05445

(Petition for Revival of Unintentionally Abandoned Application [11-3]—page 4 of 4)

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1. This application became abandoned on June 10, 2005

NOTE: Extensions under 37 C.F.R. § 1.136 are available only if asked for "prior to or with the response." Accordingly, if the question of abandonment arises when the provisions of § 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. Thus: An application which is abandoned for failure to respond within a set period with no extension fee having been paid, would not require the payment of extension fees as a condition for revival. M.P.E.P. § 711.03(c), 6th ed., rev. 2.

2. This application became abandoned because the failure to prosecute was an unintentional delay. The entire delay in filing the required reply from the due date until the filing of this petition was unintentional 37 C.F.R. § 1.137(b)(3).

3. Response or action required

- ☐ has been filed.
☐ is attached.

(complete the following, as applicable)

NOTE: The PTO accepts the filing of a continuing application as a response under 37 C.F.R. 1.137. To facilitate processing in such a case, the petition to revive should specifically refer to the filing of a continuing application and also include an express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application. Notice of May 13, 1983, (1091 O.G. 11-12). See also M.P.E.P. § 711.03(c), 6th ed., rev. 2. "In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof." 37 C.F.R. § 1.137(b)(1).

NOTE: 37 C.F.R. 1.137(c):

(c) Reply. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

- ☐ In connection with the required reply which is required by this petition, please note that:
- ☐ the response in this case is the filing of a continuation application having an express abandonment of the instant application upon its revival conditioned on the granting of a filing date to the continuing application copending with this application.
 - ☒ the response is by the filing of a request for continued examination in compliance with § 1.114.
 - ☐ the required issue fee or any portion thereof is paid.
 - ☐ the required publication fee is paid.
 - ☐ Other

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**STATEMENT ACCOMPANING PETITION OF AN
APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137 (b)**

In Re: Application 10/604,183 by John M. Blondin et al.

My Name is Francis J. Thornton and my registration number is 20,610. I was retained by the IBM Corporation to prepare and prosecute application 10/604,183 by John M. Blondin et al.

On Dec. 13 2004, an Office Action rejecting three claims, allowing twelve claims, and objecting to five claims was received by the IBM Intellectual Property Law Dept at Essex Junction Vermont and a copy of this action was faxed to my office. This fax was not received due to a failure in the cable connecting the Computer to the fax machine.

Prior to this time I had injured my shoulder by falling on the ice and this injury required surgical repair. This surgery occurred on Feb. 8, 2005. This required a recovery period during which my arm was immobilized in a sling for four weeks. Once the sling was removed six weeks of extensive Physical Therapy was required. During this period I was infrequently in my office and did not realize that the cable coupling my fax machine to my computer had failed. In March, after the sling was removed, I discovered the cable fault and had it repaired. In the middle of May, a question regarding this application arose and, on May 19 2005, the Essex Junction Property Law Dept. faxed a new copy of the Office Action to me. I misunderstood the issue and believed that this was a newly received Office Action and that I had some weeks to prepare a suitable response. During the first week in July I realized that the six months response time had expired that that this application had become unintentionally abandoned.

Accordingly I prepared the attached petition for revival and this statement.

Respectfully submitted,

By: 
Francis J. Thornton

Dated July 12, 2005

Registration No. 20,610
Telephone (802) 425-2410
Facsimile (802) 425-6124

FRANCIS J. THORNTON
4205 Ethan Allen Highway
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